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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,876	03/20/2004	Stephen B. Austin	1412-001	7663
4678	7590	01/12/2006		
MACCORD MASON PLLC 300 N. GREENE STREET, SUITE 1600 P. O. BOX 2974 GREENSBORO, NC 27402			EXAMINER ALIMENTI, SUSAN C	
			ART UNIT	PAPER NUMBER
			3644	
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/804,876

Applicant(s)

AUSTIN, STEPHEN B.

Examiner

Susan C. Alimenti

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 11-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 10/21/05.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-6, 8, and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Melville (US 6,973,765).

Melville discloses a device for processing animal units comprising at least one sensor (load cell 123' or optical sensor 130) for determining the presence of an animal unit (cut of meat 24) (col.12, lns.6-8, & 28-31). Sensors are located throughout the processing system, including at the input of particular processing or deboning stations. The animal unit 24 is identified and tracked throughout the processing thereof (col.8, lns.28-31).

Regarding claims 2 and 3, Melville's device senses the animal unit holder (discs 193, or belt 190) via barcode or other sensing means capable of sensing multiple unit holders (col.11, 36-39).

Regarding claims 4, 5, and **6**, Melville's device is capable of determining the presence or absence of an animal unit (cut 24), (col.12, lns. 6-8, & 28-31).

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Regarding claims 8 and 9, characteristics such as weight or cut length of said unit are sensed and received by processor 34 so controller 119, 195 may control operations such as trimming, bagging, labeling, or any of a variety of processing steps.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melville as applied to claims 1-6, 8 and 9 above, and further in view of De Witt et al. (US 3,593,008).

Mellville discloses the claimed invention substantially as claimed, except the process for counting animal units produced is not positively disclosed. It is well known in the art that manufacturing systems are monitored for efficiency purposes by recording the total output of the machine or system. Such monitoring is accomplished by counting the number of product units that are output in a period of time. De Witt et al. (De Witt) discloses an article recording system that accomplishes such efficiency monitoring in an attempt to improve such systems (De Witt, col.1, lns.28-37). De Witt's device is capable of counting and recording all the units produced and passing over a conveyor in order to consistently monitor the output of the system (col.2, lns.56-58). It would have been obvious to one having ordinary skill in the art to count the animal units (cuts 24 or carcasses 102) in order to monitor the efficiency of the device.

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6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Melville as applied to claims 1-6, 8 and 9 above, and further in view of Ewing (US 4,882,811).

Melville discloses the claimed invention except it is not positively stated that the sensing of the animal units controls a water supply, e.g. for a cleaning or treating process. Ewing discloses an animal processing system, in the same field of invention, that utilizes a processing step for cleaning the animal unit (catfish 10) that provides in a controlled manner in order to conserve water. The device determines the presence of said unit 10 via sensor 70, and controller 92 times the duration of a spray of water on the unit 10 (Ewing, col.7, lns.40-57). It would have been obvious to one having ordinary skill in the art to utilize a cleaning step before final bagging to hinder bacteria growth and to control the duration of the water supply in order to conserve water.

### ***Conclusion***

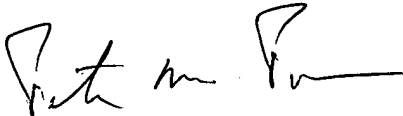
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan C. Alimenti

  
1/9/06